

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

United States of America

vs.

Erwin Terrell Scott,

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Case No. 4:06-207-TLW

ORDER

This matter is before the Court for consideration of whether the defendant is entitled to a reduction in his sentence pursuant to Amendment 706 to the United States Sentencing Guidelines (“U.S.S.G.”), effective November 1, 2007, and deemed retroactive March 3, 2008. U.S.S.G. App. C. Amend. 706 (Nov. 1, 2007).

The Court has reviewed the record in this case including the defendant’s Pre-sentence Investigation Report and the Sentence Reduction Report, both prepared by the United States Probation Office. Based on this review, the Court has determined that the defendant is not eligible for a reduction in his sentence pursuant to 18 U.S.C. § 3582 for the following reason(s): this case does not qualify because the sentence imposed was the mandatory minimum with no 5K1.1 departure motion.¹ Accordingly, defendant’s request for reduction under 18 U.S.C. 3582 is **DENIED**. (Doc. # 632).²

¹The Court notes that in July of 2010, Defendant received a reduction pursuant to Rule 35(b). However, this does not change the legal analysis outlined above.

²As to Petitioner’s request to be appointed a public defender to assist him in filing a motion to the courts for a time reduction under Amendment 706, this request is denied as MOOT. (Doc. # 629). By standing Order dated January 18, 2008, the public defender was appointed to represent defendants, with their consent, to review their files and determine if the amendment applies to them. This Order is attached for Defendant’s convenience.

IT IS SO ORDERED.

January 27, 2012
Florence, South Carolina

s/ Terry L. Wooten
TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE